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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,037	11/17/2003	John McCrory	3570/4	2785

7590 07/14/2005

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EXAMINER

ZEC, FILIP

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/715,037	MCCRORY, JOHN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Filip Zec	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3 and 5-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,490,396 to Morris. In FIG. 4, Morris teaches a cooler (20) comprising a sidewall portion including an outer layer (10) and an inner layer (8) quilted (13A-E) to form a plurality of gel pockets (col 1, line 39), and gel (3) disposed in the plurality of gel pockets; wherein the cooler is foldable along regions between the gel pockets (abstract); wherein quilting the outer layer and the inner layer results in a polygonal shape (see FIG. 3); said cooler further comprising a lid (2) including an outer layer (8) and an inner layer (10) quilted to form a plurality of gel pockets (col 1, lines 9-10), wherein the lid is sealably connected to the sidewalls (9) and wherein the connection is a Velcro connection (abstract); wherein said cooler further comprises a bottom (col 2, lines 23-25) including an outer layer (10) and an inner layer (10) quilted (13) to form a plurality of gel pockets, wherein the bottom is fixedly attached to the sidewall via stitching (col 2, lines 44-46) and wherein the cooler further comprises a bottom flap (14) foldably attached to a seam between the bottom and the sidewall.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,490,396 to Morris, in view of U.S. Patent 6,474,095 to Chan. Morris discloses applicant's basic inventive concept, a cooler comprising a sidewall portion including an outer layer and an inner layer quilted to form a plurality of gel pockets, and gel disposed in the plurality of gel pockets, substantially as claimed with the exception of stating that the gel is a saline solution. Chan shows saline used a cooling gel (abstract, col 3, lines 49-55) to be old in the refrigeration art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Chan to modify the system of Morris, by using saline water as a cooling gel in order to precool it to a low temperature and fit into a foldable pocket.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,490,396 to Morris. Morris discloses applicant's basic inventive concept, a cooler comprising a sidewall portion including an outer layer and an inner layer quilted to form a plurality of gel pockets, and gel disposed in the plurality of gel pockets, substantially as claimed with the exception of stating that quilting the outer layer and the inner layer results in a circular shape. Morris teaches quilting the outer layer and the inner layer resulting in a polygonal shape (see FIG. 3). Also, the applicant should note that the selection of a shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA

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1966). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Morris, by shaping the container in a circular shape in order to fit into a circular space in a car or another, bigger container, when folded and not in use.

6. The use of the trademark Velcro has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,361,603 to Merritt-Munson, Carolann teaches insulative carrying case.

U.S. Patent 6,422,032 to Greene, Gary Keith teaches a reusable cooler bag.

U.S. Patent 6,068,402 to Freese, Brent et al. teaches a foldable cooler.

U.S. Patent 6,048,099 to Muffett, Dorothy J. et al. teaches a soft-sided insulated container.

U.S. Patent 5,562,228 to Ericson, John C. teaches a collapsible cooler apparatus.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (571) 272-4815. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Filip Zec  
Examiner  
Art Unit 3744

  
**CHERYL TYLER**  
**SUPERVISORY PATENT EXAMINER**

FZ